IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

TUESDAY, THE 24TH JULY 2007 / 2ND SRAVANA 1929

WP(C).No. 22672 of 2007(Y)

PETITIONER:

K.SREERAMAN, S/O,KRISHAN IYER,
RESIDING AT KIZHAKKE MADOM, EAST NADA, OORAKKOM PO
THRISSUR DISTRICT.

BY ADV. SRI.P.DEEPAK

RESPONDENTS:

---

1. THE REGISTERING AUTHORITY, THRISSUR.

2. KERALA TRANSPORT DEVELOPMENT FINANCE CORPORATION LIMITED, THIRUVANANTHAPURAM.

3. SHRIRAM TRANSPORT FINANCE COMPANY LTD., NEAR KRISHNA NURSING HOME, CHITTOOR ROAD, ERNAKULAM.

BY GOVERNMENT PLEADER SRI. BENJAMIN PAUL.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 24/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

S. SIRI JAGAN, J.

W.P.(C)NO.22672 OF 2007

DATED THIS THE 24th DAY OF JULY, 2007

JUDGMENT

The petitioner challenges Ext.P7 notice issued under Rule 61 (3) of the Central Motor Vehicles Rules. The petitioner's vehicle was financed by the 2nd respondent, Kerala Transport Development Finance Corporation Limited. The petitioner was informed by the 3rd respondent through Ext.P4 telegram that the 3rd respondent had seized the petitioner's vehicle. Thereafter, by Ext.P5 letter, the 3rd respondent demanded amounts due under the hire purchase agreement. According to the petitioner, the petitioner has no connection with the 3rd respondent and the financing was done by the 2nd respondent. The petitioner also submits that he is totally ignorant about the role of the 3rd respondent in this matter. Now the petitioner has been served with Ext.P7 notice by the 1st respondent stating that the 2nd respondent has repossessed the vehicle and requested for fresh registration certificate in his name. According to the petitioner for initiating proceedings under Rule 61 one of the two conditions namely refusal to deliver the certificate of registration or absconding has to be proved which has not been done in this case. The learned counsel for

the petitioner submits that in the case of the petitioner both the conditions are not satisfied. In addition he would also submit that repossession also should be by the financier. He points out that as is evident from Exts.P4 and P5, the repossession in this case is by a total stranger namely, the 3rd respondent and therefore Ext.P7 is vitiated.

2. I have heard the learned Government pleader also. I find that Ext.P7 is a show cause notice calling upon the petitioner to file his representation in the matter. That being so, I am not inclined to interfere with Ext.P7 at this point of time. In the above circumstances, I dispose of this writ petition with the following directions.

The petitioner shall file his representation against proposal in Ext.P1 within two weeks from today. He need not, for the present, surrender the certificate of registration as directed in Ext.P7. The 1st respondent shall consider his representation in the matter and take a final decision regarding the maintainability of the claim of the 2nd respondent for fresh registration certificate in accordance with law and proceed further in accordance with the orders to be passed pursuant thereto. If after hearing the petitioner, the 1st respondent deems it necessary he may direct the petitioner to surrender the registration certificate.

S. SIRI JAGAN, JUDGE

Acd